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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,451	02/13/2004	Brenda Lee Bailey	19948-17041	8964

7590 09/27/2005

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EXAMINER

BOGART, MICHAEL G.

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 09/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/779,451	<b>Applicant(s)</b> BAILEY, BRENDA LEE	
	<b>Examiner</b> Michael G. Bogart	<b>Art Unit</b> 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 February 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8-16 and 18-20 is/are allowed.
- 6) ☒ Claim(s) 1-7 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                                       |                                                                                         |
|-------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                           | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>13 February 2004</u> . | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Claim Objections***

Claim 1 is objected to because of the following informalities:

The last subparagraph should be labeled --i-- instead of "I" so as to be consistent with the rest of the claim. Appropriate correction is suggested.

### ***Claim Rejections – 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1-7 and 17 are rejected under 35 U.S.C. § 102(b) as being anticipated by Roe *et al.* (US 6,395,955 B1).

Roe *et al.* teach a diaper (20) to be worn by a user, comprising:

a center portion (37);

a rear belt (38) joined to said center portion (37);

a front belt (36) joined to said center portion (37);

wherein said center portion (37) said rear belt (38), and said front belt (36) have an inward facing surface (24) directed toward said user when said diaper (20) is worn and an outward facing surface (26) directed away from said user when said diaper (20) is worn;

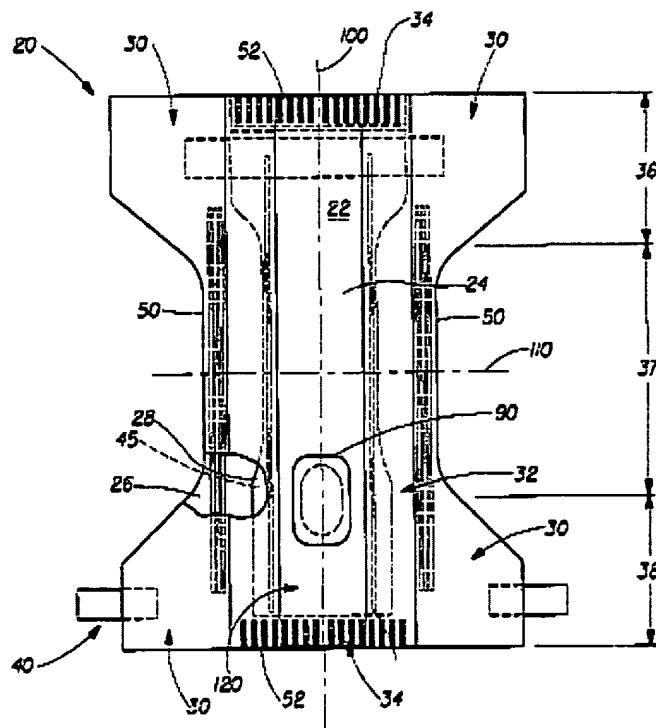
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a feces receiver (bodily waste activation device) (90), connected to said center portion (37) by an opening (96) in said center portion (37);

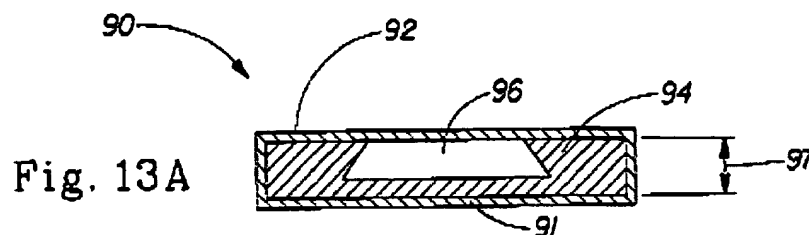
wherein said feces receiver (90) lies proximate said outward facing surface (26);

wherein said feces receiver (90) is bounded by said opening (96), a chamber interior side wall, and a chamber interior bottom wall;

wherein said side wall includes an undercut, so that the cross sectional area of said feces receiver interior chamber increases proceeding from said opening (96) toward said bottom wall, and structural support elements (94) proximate said side wall having sufficient strength to prevent the collapse of said feces receiver (90) under the weight of said user (column 38, lines 6-10)(see figures 12 and 13A, below).



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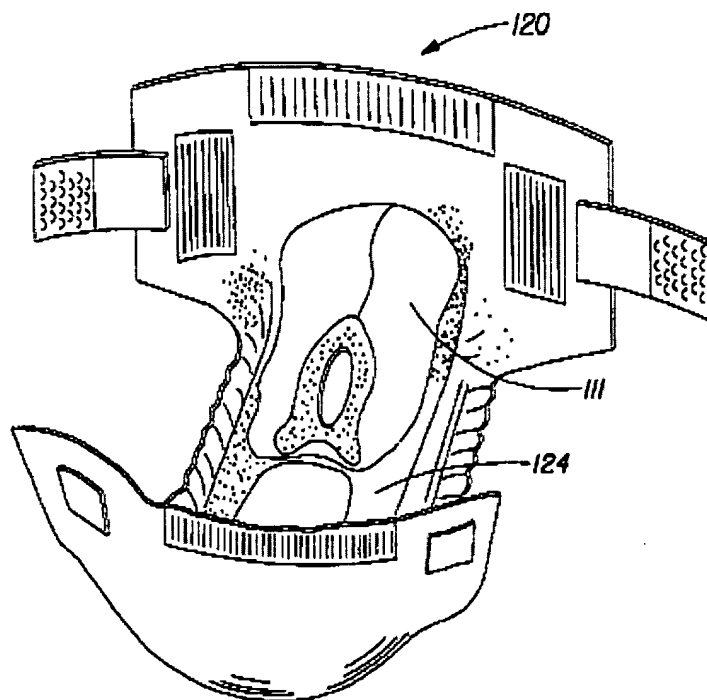


Regarding claim 2, Roe *et al.* teach that the rear belt (38) has a first rear wing (30) and a second rear wing (30);

said rear belt (38) includes closure means (40) located proximate said first rear wing (30) and said second rear wing (30);

said front belt (36) has a first front wing (30) and a second front wing (30); and

said front belt (36) includes closure means located proximate said first front wing (30) and said second front wing (30)(see figure 6, below).



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Regarding claims 3 and 4, Roe *et al.* at column 8, lines 4-25 incorporate by reference diaper fastening systems including adhesive strips and hook and loop fasteners.

Regarding claim 5, Roe *et al.* teach first and second leg reliefs (elastic side strips and/or side flaps)(50, 32).

Regarding claims 6 and 7, Roe *et al.* teach front and rear belt elastic portions (34).

Regarding claim 17, Roe *et al.* teach that the entire feces receiver (90) can be removed from the rest of the diaper to empty its contents, even if that requires destroying the diaper.

#### ***Allowable Subject Matter***

Claims 8-16, and 18-20 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

The art of record does not disclose a diaper having a interior waste chamber defined by successive aligned openings in at least three vertically stacked absorbent layers such that each opening is greater in size in the z-direction downward from the top opening which faces towards a wearer during use, than the opening immediately above it such that the top opening is larger than the second opening under it which in turn is larger than the third opening under the second opening.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bogart whose telephone number is (571) 272-4933.

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In the event the examiner is not available, the Examiner's supervisor, Tatyana Zalukaeva may be reached at phone number (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300 for formal communications. For informal communications, the direct fax to the Examiner is (571) 273-4933.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-3700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Bogart  
19 September 2005

**TATYANA ZALUKAEVA**  
**PRIMARY EXAMINER**

